

# COURT MINUTES OF SENTENCING HEARING

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UNITED STATES of AMERICA,

v.

CASE NO. 17-CR-204-JPS

DANIEL KOSOSKI.

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## HON. J. P. STADTMUELLER PRESIDING

DATE: September 6, 2018

TIME SCHEDULED: 8:30 a.m.

COURT DEPUTY/CLERK: Kate Maternowski

TIME CALLED: 8:31 a.m.

COURT REPORTER: Rich Ehrlich

TIME FINISHED: 9:24 a.m.

GOVERNMENT BY: Kelly Watzka

DEFENDANT BY: Bradley Priebe

PROBATION BY: Eileen Vodak

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### Notes:

- 8:31 Appearances; Court puts background of case on record, including Defendant's having pled guilty to Count One of the Indictment; Court notes it has reviewed presentence report
- 8:33 Parties have reviewed presentence report and have no objections to the facts as stated therein; Court inquires with Probation about Paragraph 79 of the presentence report regarding IRS denying release of information in this case; Probation responds; Court adopts the facts as stated in the presentence report
- 8:35 Court notes applicable Guidelines:  
Total Offense Level: 16  
Criminal History Category: II  
24 to 30 months imprisonment  
1 to 3 years supervised release  
\$5,000.00 to \$50,000.00 fine  
\$147,020.38 restitution  
\$100.00 special assessment
- 8:36 Parties accept these guidelines; Court will adopt for purposes of considering Defendant's sentence
- 8:37 Defendant's attorney makes a statement on Defendant's behalf; requests sentence of twelve months and one day

8:46 Court inquires with Defendant's attorney about restitution balance; Defendant's attorney believes the current balance is \$137,356.98; Court and counsel discuss

8:48 Defendant makes a statement on his own behalf

8:54 Government makes a statement; references joint recommendation for sentence of a year and a day

9:00 Government does not dispute the defense's understanding of the current restitution amount owed

9:04 Court and parties discuss the previously circulated proposed conditions of supervised release; in light of the defendant's intention to pay the outstanding restitution in full today, the Court suggests deleting proposed conditions 14 through 17; parties concur

9:05 Court discusses statements of the parties, facts of the case, and facts as presented in presentence report

9:15 Court imposes the following formal sentence:  
12 months and one day of imprisonment as to Count One  
1 year of supervised release as to Count One  
Fine is waived  
\$100.00 special assessment  
\$137,356.98 restitution to be tendered to the Clerk of Court today  
Recommends incarceration at the Federal Correctional Institution in Oxford, Wisconsin  
Defendant remains on bond and will voluntarily surrender on or after October 10, 2018  
Counts Two, Three, Four, and Five of the Indictment are dismissed

9:23 Court advises Defendant of his right of appeal

9:24 Parties have nothing further to address

9:24 Court stands in recess

## FORMAL SENTENCE

### Custody of Bureau of Prisons

12 months and 1 day as to Count One

### Supervised Release / Probation

1 year as to Count One

### Fine

Terms: None

- ☒ Fine waived due to Defendant's inability to pay
- ☐ Interest on fine is waived
- ☐ Defendant to participate in FBP Inmates' Financial Responsibility Program
- ☐ Payments to apply to special assessment, then fine or restitution (if applicable)
- ☐ Court imposes costs of incarceration, community confinement, and supervision

### Restitution

Terms: \$137,356.98

Payee(s): Department of Veterans Affairs

Special Terms of Payment: See Judgment for details

### Conditions of Supervised Release

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Report in 72 hours                          | <input checked="" type="checkbox"/> Follow probation officer instructions    |
| <input checked="" type="checkbox"/> No other crimes                             | <input checked="" type="checkbox"/> Permit probation visits and confiscation |
| <input checked="" type="checkbox"/> No firearms or other dangerous weapons      | <input checked="" type="checkbox"/> No association with criminals            |
| <input checked="" type="checkbox"/> No illegally possess controlled substances  | <input checked="" type="checkbox"/> Shall not knowingly leave district       |
| <input checked="" type="checkbox"/> Drug testing                                | <input checked="" type="checkbox"/> No informer agreement without approval   |
| <input checked="" type="checkbox"/> Reside at approved residence                |  |
| <input checked="" type="checkbox"/> Best efforts to secure full-time employment |  |
| <input checked="" type="checkbox"/> Notify if change of residence / employment  |  |
| <input checked="" type="checkbox"/> Notify probation of arrest                  |  |

### Special Assessment

Terms: \$100.00

- ☒ To be paid immediately to the Clerk of the Court, Room 362
- ☐ To be paid prior to the expiration of this sentence
- ☐ Other:

### Forfeiture

Terms: N/A

Custody Status

- ☐ Defendant remanded to custody of U.S. Marshal
- ☐ Execution of sentence stayed until \_\_\_\_
- ☒ Defendant shall voluntarily surrender to institution on or after October 10, 2018
- ☒ Defendant's bond continued until he reports
- ☒ Defendant advised of right of appeal
- ☒ Recommendations for BOP: Placement at the Federal Correctional Facility in Oxford, Wisconsin

Other

- ☒ Upon motion of the government, Counts Two, Three, Four, and Five of the Indictment be and the same are hereby DISMISSED
- ☐ Court orders that drug testing requirements be and the same are hereby WAIVED

STATEMENT OF REASONS

- ☒ The Court adopts the factual findings and Guideline application in the presentence report  
or
- ☐ The Court adopts the factual findings and Guideline application in the presentence report except as noted at sentencing

Guideline Range Determined by the Court:

Total Offense Level:	16
Criminal History Category:	II
Imprisonment Range:	24–30 months imprisonment
Supervised Release Range:	1–3 years supervised release
Fine Range:	\$5,000.00–\$50,000.00
Restitution:	\$147,020.38
Special Assessment:	\$100.00

- ☒ Fine is waived or is below the Guideline range because of Defendant's inability to pay
- ☐ Full restitution is not ordered for the following reasons:

- ☐ The sentence is within the Guideline range, that range does not exceed 24 months, and the Court finds no reason to depart from the sentence called for by application of the Guidelines  
or
- ☐ The sentence is within the Guideline range, that range exceeds 24 months, and the sentence is imposed for the following reasons:  
or
- ☒ The sentence departs from the Guideline range for the reasons set forth at sentencing